

## **REMARKS**

Reconsideration of the application is respectfully requested.

### **I. Status of the Claims**

Claims 4, 7, 9 and 11 are currently pending in the application.

Claims 1-3, 6, 8 and 10 have been cancelled without prejudice or disclaimer of the subject matter contained therein.

Claims 4 and 9 have been amended. No new matter is added. Support for the amendments can be found, e.g., in paragraphs [0024], [0089] and [0094]-[0096].

Claim 11 is new. No new matter is added. Support for the amendments can be found, e.g., in paragraphs [0047] and [0081] and Figure 6.

### **II. Information Disclosure Statement Submitted September 25, 2006**

Applicants note that reference BA cited in the Information Disclosure Statement submitted on September 25, 2006 was not initialed by Examiner without any reasons provided for in the Office Action. Applicants respectfully request the Examiner to acknowledge that reference BA was considered, or provide reasons why it was not considered, in the next Action that issues in the present case.

### **III. Objection to the Drawings**

The Examiner has objected to Figure 6 because the vertical axis of the graph shown therein is not labeled. Figure 6 is amended to reflect that the vertical axis corresponds to “frequency.” A replacement drawing sheet is submitted herewith reflecting this amendment. No new matter is added. Support for the amendment can be found, e.g., in paragraphs [0047], [0081] and [0100]. Specifically, in paragraphs [0047] and [0081], Applicants state that “FIG. 6 is a diagram of a representative **particle size distribution** of a phosphor having two or more particle size peaks in the same light emitting device.” Similarly, in paragraph [0100], Applicants state that “[t]he phosphor 41 contained in the phosphor layer 42 includes phosphor particles, with which **two or more peaks are present in a particle size distribution** and that “the phosphor 41 includes a first phosphor particle group that mainly makes up the phosphor 41 in the phosphor layer 42 and a second phosphor particle group of smaller average particle diameter as shown in FIG. 6.” Thus, the peaks shown in Figure 6 correspond to the frequency of occurrence of two groups of particle sizes in the phosphor. Accordingly, Applicants respectfully request that the drawing objection be withdrawn.

### **IV. Claim Rejections - 35 USC §102**

Claims 1-3 and 8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2003/0214233 to Takahashi et al. (“Takahashi”). In view of the cancellation of claims 1-3 and 8 herein, this rejection is considered moot.

Claims 4, 6 and 8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Japanese Patent Publication No. 2002-050800 to Shigetsugu ("Shigetsugu"). Applicants respectfully traverse the rejection.

Amended claim 4 recites a phosphor layer that includes "phosphor particles having a particle diameter in a range of 5 to 10 $\mu$ m that are formed by the binding of small particles of the phosphor in a crystal growth process." Applicants respectfully submit that Shigetsugu fails to disclose or suggest the foregoing features.

While Shigetsugu describes that a fluorescent substance 6, such as a phosphor, may be present in a resin 7 as part of a light-emitting device 2 (see Figure 1), Shigetsugu is silent as to the size of the particles and how they are formed. The Examiner contends that paragraph [0050] of Shigetsugu describes phosphor particles having a diameter in the claimed range. However, paragraph [0050] of Shigetsugu describes that a coloring material 12 is formed as thin flakes which are arranged in parallel in the resin 7. Because these flakes have a width and length that is substantially larger than its thickness, they do not have a "particle diameter" that can be described. In fact, in paragraph [0048], Shigetsugu describes that, in a case where the coloring material 12 is provided in particles rather than flakes, the particle diameter must be larger than 10 $\mu$ m to prevent color unevenness.

Moreover, the coloring material 12 described in paragraphs [0048]-[0052] of Shigetsugu, which may be provided in particular embodiments (cf. Figures 1 and 6), is entirely separate from the fluorescent substance 6 described in paragraphs [0033]-[0047] and can not be relied upon to describe the phosphor particles of the present invention. As described in paragraph [0071] of Shigetsugu, adding a particular coloring material 12 to the resin 7 based on the volume of the light-

emitting device 2 and resin 7 allows for an adjustment of the luminescent color while keeping the amount of fluorescent substance 6 to a minimum.

Accordingly, Applicants respectfully submit that, because Shigetsugu fails to disclose phosphor particles having a particle diameter between 5 and 10 $\mu$ m that are formed by binding small particles of the phosphor in a crystal growth process, it cannot anticipate claim 4 or any of its dependent claims 7 and 11. Similarly, Shigetsugu cannot anticipate claim 9 which incorporates all of the features of claim 4.

Claims 5 and 10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2003/0214233 to Sakano et al. ("Sakano"). In view of the cancellation of claims 5 and 10 herein, this rejection is considered moot.

**CONCLUSION**

In view of the above amendments and remarks, Applicants believe that the pending application is in condition for allowance.

If there are any issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

By 

Louis J. DelJuidice

Registration No. 47,522

DARBY & DARBY P.C.

P.O. Box 770

Church Street Station

New York, New York 10008-0770

(212) 527-7700

(212) 527-7701 (Fax)

Attorneys/Agents For Applicant